

Adopted	Rejected
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## COMMITTEE REPORT

YES:	7
NO:	0

### MR. SPEAKER:

*Your Committee on Judiciary, to which was referred House Bill 1134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 11-8-8-1.2 IS ADDED TO THE INDIANA CODE
- 4       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5       1, 2008]: **Sec. 1.2. As used in this chapter, "electronic chat room**
- 6       **username" means an identifier that allows a person to**
- 7       **communicate over the Internet in real time using typed text.**
- 8       SECTION 2. IC 11-8-8-1.4 IS ADDED TO THE INDIANA CODE
- 9       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 10      1, 2008]: **Sec. 1.4. As used in this chapter, "electronic mail address"**
- 11      **means a destination, commonly expressed as a string of characters,**
- 12      **to which electronic mail may be sent or delivered.**
- 13      SECTION 3. IC 11-8-8-1.6 IS ADDED TO THE INDIANA CODE
- 14      AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15      1, 2008]: **Sec. 1.6. As used in this chapter, "instant messaging**
- 16      **username" means an identifier that allows a person to**

1 **communicate over the Internet in real time using typed text.**

2 SECTION 4. IC 11-8-8-1.8 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2008]: **Sec. 1.8. As used in this chapter, "social networking web**  
5 **site username" means an identifier or profile that allows a person**  
6 **to create, use, or modify a social networking web site, as defined in**  
7 **IC 34-42-4-12.**

8 SECTION 5. IC 11-8-8-7, AS AMENDED BY P.L.216-2007,  
9 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2008]: Sec. 7. (a) Subject to section 19 of this chapter, the  
11 following persons must register under this chapter:

12 (1) A sex or violent offender who resides in Indiana. A sex or  
13 violent offender resides in Indiana if either of the following  
14 applies:

15 (A) The sex or violent offender spends or intends to spend at  
16 least seven (7) days (including part of a day) in Indiana during  
17 a one hundred eighty (180) day period.

18 (B) The sex or violent offender owns real property in Indiana  
19 and returns to Indiana at any time.

20 (2) A sex or violent offender who works or carries on a vocation  
21 or intends to work or carry on a vocation full-time or part-time for  
22 a period:

23 (A) exceeding seven (7) consecutive days; or

24 (B) for a total period exceeding fourteen (14) days;  
25 during any calendar year in Indiana regardless of whether the sex  
26 or violent offender is financially compensated, volunteered, or is  
27 acting for the purpose of government or educational benefit.

28 (3) A sex or violent offender who is enrolled or intends to be  
29 enrolled on a full-time or part-time basis in any public or private  
30 educational institution, including any secondary school, trade, or  
31 professional institution, or postsecondary educational institution.

32 (b) Except as provided in subsection (e), a sex or violent offender  
33 who resides in Indiana shall register with the local law enforcement  
34 authority in the county where the sex or violent offender resides. If a  
35 sex or violent offender resides in more than one (1) county, the sex or  
36 violent offender shall register with the local law enforcement authority  
37 in each county in which the sex or violent offender resides. If the sex  
38 or violent offender is also required to register under subsection (a)(2)

1 or (a)(3), the sex or violent offender shall also register with the local  
2 law enforcement authority in the county in which the offender is  
3 required to register under subsection (c) or (d).

4 (c) A sex or violent offender described in subsection (a)(2) shall  
5 register with the local law enforcement authority in the county where  
6 the sex or violent offender is or intends to be employed or carry on a  
7 vocation. If a sex or violent offender is or intends to be employed or  
8 carry on a vocation in more than one (1) county, the sex or violent  
9 offender shall register with the local law enforcement authority in each  
10 county. If the sex or violent offender is also required to register under  
11 subsection (a)(1) or (a)(3), the sex or violent offender shall also register  
12 with the local law enforcement authority in the county in which the  
13 offender is required to register under subsection (b) or (d).

14 (d) A sex or violent offender described in subsection (a)(3) shall  
15 register with the local law enforcement authority in the county where  
16 the sex or violent offender is enrolled or intends to be enrolled as a  
17 student. If the sex or violent offender is also required to register under  
18 subsection (a)(1) or (a)(2), the sex or violent offender shall also register  
19 with the local law enforcement authority in the county in which the  
20 offender is required to register under subsection (b) or (c).

21 (e) A sex or violent offender described in subsection (a)(1)(B) shall  
22 register with the local law enforcement authority in the county in which  
23 the real property is located. If the sex or violent offender is also  
24 required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex  
25 or violent offender shall also register with the local law enforcement  
26 authority in the county in which the offender is required to register  
27 under subsection (b), (c), or (d).

28 (f) A sex or violent offender committed to the department shall  
29 register with the department before the sex or violent offender is  
30 released from incarceration. The department shall forward the sex or  
31 violent offender's registration information to the local law enforcement  
32 authority of every county in which the sex or violent offender is  
33 required to register.

34 (g) This subsection does not apply to a sex or violent offender who  
35 is a sexually violent predator. A sex or violent offender not committed  
36 to the department shall register not more than seven (7) days after the  
37 sex or violent offender:

38 (1) is released from a penal facility (as defined in IC 35-41-1-21);

- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex or violent offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. A sex or violent offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or

1 violent offender that complies with the requirements of IC 36-2-13-5.5  
 2 at least once per year. The sheriff of a county containing a consolidated  
 3 city shall provide the police chief of the consolidated city with all  
 4 photographic and computer equipment necessary to enable the police  
 5 chief of the consolidated city to transmit sex or violent offender  
 6 photographs (and other identifying information required by  
 7 IC 36-2-13-5.5) to the Indiana sex and violent offender registry web  
 8 site established under IC 36-2-13-5.5. In addition, the sheriff of a  
 9 county containing a consolidated city shall provide all funding for the  
 10 county's financial obligation for the establishment and maintenance of  
 11 the Indiana sex and violent offender registry web site established under  
 12 IC 36-2-13-5.5.

13 (j) When a sex or violent offender registers, the local law  
 14 enforcement authority shall:

- 15 (1) immediately update the Indiana sex and violent offender  
 16 registry web site established under IC 36-2-13-5.5;
- 17 (2) notify every law enforcement agency having jurisdiction in the  
 18 county where the sex or violent offender resides; and
- 19 (3) update the National Crime Information Center National Sex  
 20 Offender Registry data base via the Indiana data and  
 21 communications system (IDACS).

22 When a sex or violent offender from a jurisdiction outside Indiana  
 23 registers a change of address, **electronic mail address, instant**  
 24 **messaging username, electronic chat room username, social**  
 25 **networking web site username**, employment, vocation, or enrollment  
 26 in Indiana, the local law enforcement authority shall provide the  
 27 department with the information provided by the sex or violent  
 28 offender during registration.

29 SECTION 6. IC 11-8-8-8, AS AMENDED BY P.L.216-2007,  
 30 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2008]: Sec. 8. **(a)** The registration required under this chapter  
 32 must include the following information:

- 33 (1) The sex or violent offender's full name, alias, any name by  
 34 which the sex or violent offender was previously known, date of  
 35 birth, sex, race, height, weight, hair color, eye color, any scars,  
 36 marks, or tattoos, Social Security number, driver's license number  
 37 or state identification card number, vehicle description and  
 38 vehicle plate number for any vehicle the sex or violent offender

owns or operates on a regular basis, principal residence address, other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period, and mailing address, if different from the sex or violent offender's principal residence address.

(2) A description of the offense for which the sex or violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana, the name and address of each campus or location where the sex or violent offender is enrolled in school in Indiana, and the address where the sex or violent offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex or violent offender.

(5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator.

(6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life.

**(7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.**

~~(7)~~ (8) Any other information required by the department.

**(b) If the sex or violent offender registers any information under subsection (a)(7), the offender shall sign a consent form authorizing any business or organization that offers electronic communications, Internet access, or remote computer services to provide the department and the state police department all information concerning the sex or violent offender that the business or organization is aware of, including the sex or violent offender's Internet usage.**

SECTION 7. IC 11-8-8-11, AS AMENDED BY P.L.216-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) If a sex or violent offender who is required to register under this chapter changes:

(1) principal residence address; or

1 (2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place  
2 where the sex or violent offender stays in Indiana;  
3 the sex or violent offender shall report in person to the local law  
4 enforcement authority having jurisdiction over the sex or violent  
5 offender's current principal address or location and, if the offender  
6 moves to a new county in Indiana, to the local law enforcement  
7 authority having jurisdiction over the sex or violent offender's new  
8 principal address or location not more than seventy-two (72) hours  
9 after the address change.

10 (b) If a sex or violent offender moves to a new county in Indiana, the  
11 local law enforcement authority where the sex or violent offender's  
12 current principal residence address is located shall inform the local law  
13 enforcement authority in the new county in Indiana of the sex or violent  
14 offender's residence and forward all relevant registration information  
15 concerning the sex or violent offender to the local law enforcement  
16 authority in the new county. The local law enforcement authority  
17 receiving notice under this subsection shall verify the address of the  
18 sex or violent offender under section 13 of this chapter not more than  
19 seven (7) days after receiving the notice.

20 (c) If a sex or violent offender who is required to register under  
21 section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent  
22 offender's principal place of employment, principal place of vocation,  
23 or campus or location where the sex or violent offender is enrolled in  
24 school, the sex or violent offender shall report in person:

25 (1) to the local law enforcement authority having jurisdiction over  
26 the sex or violent offender's current principal place of  
27 employment, principal place of vocation, or campus or location  
28 where the sex or violent offender is enrolled in school; and

29 (2) if the sex or violent offender changes the sex or violent  
30 offender's place of employment, vocation, or enrollment to a new  
31 county in Indiana, to the local law enforcement authority having  
32 jurisdiction over the sex or violent offender's new principal place  
33 of employment, principal place of vocation, or campus or location  
34 where the sex or violent offender is enrolled in school;

35 not more than seventy-two (72) hours after the change.

36 (d) If a sex or violent offender moves the sex or violent offender's  
37 place of employment, vocation, or enrollment to a new county in  
38 Indiana, the local law enforcement authority having jurisdiction over

the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school shall inform the local law enforcement authority in the new county of the sex or violent offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex or violent offender moves the sex or violent offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex or violent offender's new place of residence, employment, vocation, or enrollment.

**(f) If a sex or violent offender who is required to register under this chapter changes or obtains a new:**

- (1) electronic mail address;**
- (2) instant messaging username;**
- (3) electronic chat room username; or**
- (4) social networking web site username;**

**the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and shall provide the local law enforcement authority with the new address or username not more than seventy-two (72) hours after the change or creation of the address or username.**

~~(f)~~ (g) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex or violent offender.

~~(g)~~ (h) A local law enforcement authority who is notified of a change under subsection (a), ~~or~~ (c), **or (f)** shall:

- (1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;
- (2) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS); and
- (3) notify the department.

~~(h)~~ (i) If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex



or violent offender during registration to the department.

(j) If a sex or violent offender is no longer required to register due to the expiration of the registration period, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

SECTION 8. IC 35-38-1-7.5, AS AMENDED BY P.L.216-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2);

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or

(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8;

(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child

1 for an act that would be a sex offense if committed by an adult, if,  
2 after considering expert testimony, a court finds by clear and  
3 convincing evidence that the person is likely to commit an  
4 additional sex offense; or

5 (4) commits a sex offense (as defined in IC 11-8-8-5.2) while  
6 having had a previous unrelated adjudication as a delinquent child  
7 for an act that would be a sex offense if committed by an adult, if  
8 the person was required to register as a sex or violent offender  
9 under IC 11-8-8-5(b)(2);

10 is a sexually violent predator. Except as provided in subsection (g) or  
11 (h), a person is a sexually violent predator by operation of law if an  
12 offense committed by the person satisfies the conditions set forth in  
13 subdivision (1) or (2) and the person was released from incarceration,  
14 secure detention, or probation for the offense after June 30, 1994.

15 (c) This section applies whenever a court sentences a person or a  
16 juvenile court issues a dispositional decree for a sex offense (as defined  
17 in IC 11-8-8-5.2) for which the person is required to register with the  
18 local law enforcement authority under IC 11-8-8.

19 (d) At the sentencing hearing, the court shall indicate on the record  
20 whether the person has been convicted of an offense that makes the  
21 person a sexually violent predator under subsection (b).

22 (e) If a person is not a sexually violent predator under subsection  
23 (b), the prosecuting attorney may request the court to conduct a hearing  
24 to determine whether the person (including a child adjudicated to be a  
25 delinquent child) is a sexually violent predator under subsection (a). If  
26 the court grants the motion, the court shall appoint two (2)  
27 psychologists or psychiatrists who have expertise in criminal  
28 behavioral disorders to evaluate the person and testify at the hearing.  
29 After conducting the hearing and considering the testimony of the two  
30 (2) psychologists or psychiatrists, the court shall determine whether the  
31 person is a sexually violent predator under subsection (a). A hearing  
32 conducted under this subsection may be combined with the person's  
33 sentencing hearing.

34 (f) If a person is a sexually violent predator:

35 (1) the person is required to register with the local law  
36 enforcement authority as provided in IC 11-8-8; and

37 (2) the court shall send notice to the department of correction.

38 (g) This subsection does not apply to a person who has two (2) or

more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8. A person who is a sexually violent predator may petition the **sentencing court or the juvenile court (if the person was convicted or adjudicated in Indiana), or the circuit or superior court in the county in which the person resides (if the person was not convicted or adjudicated in Indiana)**, to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court or juvenile court makes its determination under subsection (e); or

(2) the person is released from incarceration or secure detention.

A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person **has proved by a preponderance of the evidence (if the person has been found to be a sexually violent predator under subsection (e)), or by clear and convincing evidence (if the person is a sexually violent predator under subsection (b))**, that the person should no longer be considered a sexually violent predator under subsection (a). If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

(1) The victim was not less than twelve (12) years of age at the time the offense was committed.

(2) The person is not more than four (4) years older than the

1 victim.

2 (3) The relationship between the person and the victim was a  
3 dating relationship or an ongoing personal relationship. The term  
4 "ongoing personal relationship" does not include a family  
5 relationship.

6 (4) The offense committed by the person was not any of the  
7 following:

8 (A) Rape (IC 35-42-4-1).

9 (B) Criminal deviate conduct (IC 35-42-4-2).

10 (C) An offense committed by using or threatening the use of  
11 deadly force or while armed with a deadly weapon.

12 (D) An offense that results in serious bodily injury.

13 (E) An offense that is facilitated by furnishing the victim,  
14 without the victim's knowledge, with a drug (as defined in  
15 IC 16-42-19-2(1)) or a controlled substance (as defined in  
16 IC 35-48-1-9) or knowing that the victim was furnished with  
17 the drug or controlled substance without the victim's  
18 knowledge.

19 (5) The person has not committed another sex offense (as defined  
20 in IC 11-8-8-5.2) (including a delinquent act that would be a sex  
21 offense if committed by an adult) against any other person.

22 (6) The person did not have a position of authority or substantial  
23 influence over the victim.

24 (7) The court finds that the person should not be considered a  
25 sexually violent predator.

26 SECTION 9. IC 35-38-2-2.2, AS AMENDED BY P.L.216-2007,  
27 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2008]: Sec. 2.2. **(a)** As a condition of probation for a sex  
29 offender (as defined in IC 11-8-8-4.5), the court shall:

30 (1) require the sex offender to register with the local law  
31 enforcement authority under IC 11-8-8; and

32 (2) prohibit the sex offender from residing within one thousand  
33 (1,000) feet of school property (as defined in IC 35-41-1-24.7) for  
34 the period of probation, unless the sex offender obtains written  
35 approval from the court.

36 If the court allows the sex offender to reside within one thousand  
37 (1,000) feet of school property under subdivision (2), the court shall  
38 notify each school within one thousand (1,000) feet of the sex

offender's residence of the order. However, a court may not allow a sex offender who is a sexually violent predator (as defined in IC 35-38-1-7.5) or an offender against children under IC 35-42-4-11 to reside within one thousand (1,000) feet of school property.

**(b) Except as provided in subsections (c) and (d), as a condition of probation for an offender against children under IC 35-42-4-11 who is convicted of an offense listed in IC 35-42-4-11(a)(2), the court shall prohibit the sex offender from being on the property of a primary or secondary school.**

**(c) If a sex offender who is an offender against children under IC 35-42-4-11 and is convicted of an offense listed in IC 35-42-4-11(a)(2) attends a primary or secondary school, the court, as a condition of probation, shall prohibit the sex offender from being on the property of a primary or secondary school other than the primary or secondary school that the sex offender attends.**

**(d) As a condition of probation for an offender against children under IC 35-42-4-11 who is convicted of an offense listed in IC 35-42-4-11(a)(2) and is a parent or guardian of a child who attends a primary or secondary school, the court shall:**

**(1) require the sex offender to provide written notification that the sex offender is an offender against children to:**

**(A) the school; and**

**(B) the school corporation, if the school is a public school; and**

**(2) prohibit the sex offender from being on the school property of the primary or secondary school that the sex offender's child attends unless the sex offender is:**

**(A) attending a meeting with a teacher or school administrator; and**

**(B) escorted by an employee of the school or school district while on school property.**

SECTION 10. IC 35-42-4-3, AS AMENDED BY P.L.216-2007, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:

**(1) it is committed by a person at least twenty-one (21) years of**

- 1 age;
- 2 (2) it is committed by using or threatening the use of deadly force
- 3 or while armed with a deadly weapon;
- 4 (3) it results in serious bodily injury; or
- 5 (4) the commission of the offense is facilitated by furnishing the
- 6 victim, without the victim's knowledge, with a drug (as defined in
- 7 IC 16-42-19-2(1)) or a controlled substance (as defined in
- 8 IC 35-48-1-9) or knowing that the victim was furnished with the
- 9 drug or controlled substance without the victim's knowledge.

10 (b) A person who, with a child under fourteen (14) years of age,  
 11 performs or submits to any fondling or touching, of either the child or  
 12 the older person, with intent to arouse or to satisfy the sexual desires of  
 13 either the child or the older person, commits child molesting, a Class  
 14 C felony. However, the offense:

15 **(1) is a Class B felony if the person compels the child to**  
 16 **submit to the fondling or touching by using or threatening to**  
 17 **use force; and**

18 **(2) is a Class A felony if:**

- 19 ~~(1)~~ **(A)** it is committed by using or threatening the use of
- 20 deadly force;
- 21 ~~(2)~~ **(B)** it is committed while armed with a deadly weapon; or
- 22 ~~(3)~~ **(C)** the commission of the offense is facilitated by
- 23 furnishing the victim, without the victim's knowledge, with a
- 24 drug (as defined in IC 16-42-19-2(1)) or a controlled substance
- 25 (as defined in IC 35-48-1-9) or knowing that the victim was
- 26 furnished with the drug or controlled substance without the
- 27 victim's knowledge.

28 (c) It is a defense that the accused person reasonably believed that  
 29 the child was sixteen (16) years of age or older at the time of the  
 30 conduct, unless:

- 31 (1) the offense is committed by using or threatening the use of
- 32 deadly force or while armed with a deadly weapon;
- 33 (2) the offense results in serious bodily injury; or
- 34 (3) the commission of the offense is facilitated by furnishing the
- 35 victim, without the victim's knowledge, with a drug (as defined in
- 36 IC 16-42-19-2(1)) or a controlled substance (as defined in
- 37 IC 35-48-1-9) or knowing that the victim was furnished with the
- 38 drug or controlled substance without the victim's knowledge.

SECTION 11. IC 35-42-4-11, AS AMENDED BY P.L.216-2007,  
SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2008]: Sec. 11. (a) As used in this section, and except as  
provided in subsection (d), "offender against children" means a person  
required to register as a sex or violent offender under IC 11-8-8 who  
has been:

(1) found to be a sexually violent predator under IC 35-38-1-7.5;

or

(2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than  
eighteen (18) years of age and the person is not the child's  
parent or guardian.

(F) Attempt to commit or conspiracy to commit an offense  
listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially  
similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the  
person meets the conditions described in subdivision (1) or (2) at any  
time.

(b) As used in this section, "reside" means to spend more than three  
(3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular  
location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution  
providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of  
the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the **sentencing court or the juvenile court (if the person was convicted or adjudicated in Indiana), or the circuit or superior court in the county in which the person resides (if the person was not convicted or adjudicated in Indiana)**, to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person **has proved by clear and convincing evidence that the person** should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children."

Page 1, line 17, delete "uses a social networking website; or" and insert **"uses:**

**(A) a social networking web site; or**  
**(B) an instant messaging or chat room program;**  
**that the offender knows allows a person who is less than**  
**eighteen (18) years of age to access or use the web site or**  
**program; and**  
**(2) contacts a child or a person the offender believes is a child**  
**through the social networking web site or instant messaging**  
**or chat room program;**  
**commits a sex offender Internet offense, a Class D felony."**

Page 2, delete lines 1 through 10.

Page 2, line 12, delete "applies" and insert **"and IC 35-42-4-3, as**



- 1       **amended by this act, apply".**
- 2       Renumber all SECTIONS consecutively.  
      (Reference is to HB 1134 as introduced.)

**and when so amended that said bill do pass.**

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Representative Lawson L